

CHAPTER 1037

PEACE OFFICER CONDUCT, CERTIFICATION, TRAINING, DISCIPLINE, AND PROSECUTION

H.F. 2647

AN ACT relating to peace officers, including the certification, training, and prosecution of peace officers and the use of chokeholds by peace officers, and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I PROSECUTION BY ATTORNEY GENERAL

Section 1. NEW SECTION. **13.12 Prosecution of criminal offenses committed by law enforcement officers.**

The attorney general may prosecute a criminal offense committed by a law enforcement officer, as defined in [section 80B.3](#), arising from the actions of the officer resulting in the death of another, regardless of whether the county attorney requests the assistance of the attorney general or decides to independently prosecute the criminal offense committed by the officer. If the attorney general determines that criminal charges are not appropriate, the attorney general may refer the matter to the Iowa law enforcement academy council to recommend revocation or suspension of the officer's certification if the attorney general determines that the officer committed misconduct that would be grounds for revocation or suspension of a certification under [chapter 80B](#) or [80D](#), or rules adopted pursuant to those chapters.

DIVISION II USE OF CHOKEHOLDS BY PEACE OFFICERS

Sec. 2. [Section 804.8](#), Code 2020, is amended to read as follows:

804.8 Use of force by peace officer making an arrest.

1. A peace officer, while making a lawful arrest, is justified in the use of any force which the peace officer reasonably believes to be necessary to effect the arrest or to defend any person from bodily harm while making the arrest. However, the use of deadly force or a chokehold is only justified when a person cannot be captured any other way and either of the following apply:

a. The person has used or threatened to use deadly force in committing a felony.
b. The peace officer reasonably believes the person would use deadly force against any person unless immediately apprehended.

2. A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which the peace officer would be justified in using if the warrant were valid, unless the peace officer knows that the warrant is invalid.

3. For purposes of [this section](#), "chokehold" means the intentional and prolonged application of force to the throat or windpipe that prevents or hinders breathing or reduces the intake of air.

DIVISION III CERTIFICATIONS — OTHER STATES — REVOCATION OR SUSPENSION

Sec. 3. [Section 80B.3](#), Code 2020, is amended by adding the following new subsection:
NEW SUBSECTION. 4. "Reserve peace officer" means the same as defined in [section 80D.1A](#).

Sec. 4. NEW SECTION. **80B.11F Previous certification in other states.**

1. For purposes of [this section](#), *"serious misconduct"* means improper or illegal actions taken by a law enforcement officer in connection with the officer's official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

2. The council may adopt rules pursuant to [chapter 17A](#) to establish a process for the certification through examination of law enforcement officers who have been certified in another state.

3. Before beginning employment with an employing agency in this state, a law enforcement officer who has been certified in another state must submit a preliminary application for certification through examination to the council. The application shall be under oath and shall require the applicant to provide any information determined to be necessary by the council, including but not limited to an attestation by the applicant to any of the following:

a. Whether the applicant's certification as a law enforcement officer has been revoked or suspended in another state.

b. Whether the applicant has pled guilty to or been convicted of a felony.

c. Whether the applicant has been discharged for serious misconduct from employment as a law enforcement officer.

d. Whether the applicant left, voluntarily quit, or has been laid off when the applicant knew or believed that disciplinary investigation or action was imminent or pending which could have resulted in the applicant being discharged for serious misconduct.

4. The council shall deny a preliminary application upon a finding that the applicant has done any of the following:

a. Been revoked as a certified law enforcement officer in another state.

b. Pled guilty to or been convicted of a felony.

c. Been discharged for serious misconduct from employment as a law enforcement officer.

d. Left, voluntarily quit, or been laid off when disciplinary investigation or action was imminent or pending which could have resulted in the applicant being discharged for serious misconduct, if the council determines that the applicant engaged in serious misconduct.

5. If the council denies a preliminary application for certification through examination, the applicant shall be prohibited from continued employment as a law enforcement officer in this state.

Sec. 5. [Section 80B.13, subsections 8 and 9](#), Code 2020, are amended to read as follows:

8. ~~α. Revoke or suspend a law enforcement officer's or reserve peace officer's certification for the conviction of a felony or revoke or suspend a law enforcement officer's certification for a violation of rules adopted pursuant to [section 80B.11, subsection 1](#), paragraph "h" pursuant to [section 80B.13A](#). In addition the council may consider revocation or suspension proceedings when an employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. If a law enforcement officer resigns, the employing agency shall notify the council that an officer has resigned and state the reason for the resignation if a substantial likelihood exists that the reason would result in the revocation or suspension of an officer's certification for a violation of the rules.~~

~~b. A recommendation by an employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final. "Final", as used in [this section](#), means that all appeals through a grievance procedure available to the officer or civil service have been exhausted. The written recommendations shall be unavailable for inspection by anyone except personnel of the employing agency, the council and the affected law enforcement officer, or as ordered by a reviewing court.~~

~~c. The council shall establish a process for the protest and appeal of a revocation or suspension made pursuant to [this subsection](#).~~

9. In accordance with [chapter 17A](#), conduct investigations, hold hearings, appoint hearing examiners administrative law judges, administer oaths, and issue subpoenas enforceable in district court on matters relating to the revocation or suspension of a law enforcement officer's certification.

Sec. 6. **NEW SECTION. 80B.13A Revocation or suspension of certification.**

1. For purposes of [this section](#):

a. "Final" means that all appeals through a grievance procedure available to the officer or civil service have been exhausted.

b. “*Serious misconduct*” means improper or illegal actions taken by a law enforcement officer or reserve peace officer in connection with the officer’s official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

2. The council shall revoke the certification of a law enforcement officer or reserve peace officer upon a finding that the law enforcement officer or reserve peace officer has done any of the following:

a. Pled guilty to or been convicted of a felony.

b. Been discharged for serious misconduct from employment as a law enforcement officer or from appointment as a reserve peace officer, as applicable.

c. Left, voluntarily quit, or been laid off when disciplinary investigation or action was imminent or pending which could have resulted in the law enforcement officer being discharged or the reserve peace officer being removed for serious misconduct, if the council determines that the officer engaged in serious misconduct.

3. The council may revoke or suspend the certification of a law enforcement officer or reserve peace officer due to any of the following:

a. For any other grounds authorized by rules adopted pursuant to [section 80B.11, subsection 1](#), paragraph “h”, or [section 80D.4A](#).

b. When an employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. A recommendation by an employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final.

c. When the attorney general recommends to the council that revocation or suspension would be appropriate pursuant to [section 13.12](#).

4. An employing agency shall notify the council within ten days of any termination of employment of a law enforcement officer or appointment as a reserve peace officer. The notification must state whether the law enforcement officer or reserve peace officer was discharged or removed for serious misconduct or whether the officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer being discharged or removed for serious misconduct. Upon request by the council, the employing agency shall provide any additional information or documentation about the officer including confidential records or information under [section 22.7](#) or other applicable law to the council.

5. Any recommendation, notification, or other record or information provided by an employing agency or the attorney general pursuant to [this section](#) shall be confidential except as required by rule or order of the council, an administrative law judge, or a reviewing court. Any employing agency or person who, acting reasonably and in good faith, files a notification or recommendation, releases information, or otherwise cooperates with an investigation under [this section](#) is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action.

6. The council shall adopt rules pursuant to [chapter 17A](#) establishing a process to challenge and appeal a revocation or suspension made pursuant to [this section](#).

Sec. 7. [Section 80D.4A](#), Code 2020, is amended to read as follows:

80D.4A Training and certification requirements — revocation or suspension of certification.

The director of the academy, subject to the approval of the council, shall promulgate rules in accordance with the provisions of [this chapter](#) and [chapter 17A](#), giving due consideration to varying factors and special requirements of law enforcement agencies relative to the standardized training and state certification of reserve peace officers. The rules shall provide for grounds for revocation or suspension of a reserve peace officer’s certification.

DIVISION IV
LAW ENFORCEMENT TRAINING — DE-ESCALATION TECHNIQUES AND PREVENTION
OF BIAS

Sec. 8. NEW SECTION. **80B.11G Annual training — de-escalation techniques and prevention of bias.**

1. A law enforcement agency shall provide annual training to every law enforcement officer on issues relating to de-escalation techniques and the prevention of bias. Every law enforcement officer in the state must participate in annual training in accordance with [this section](#).

2. The academy shall develop and disseminate training guidelines for all law enforcement officers consistent with best practice guidelines.

3. Every law enforcement officer shall adhere to the training guidelines developed by the academy pursuant to [this section](#). The training guidelines shall include all of the following:

a. An emphasis on law enforcement officer understanding and respect for diverse communities and the importance of effective, noncombative methods of carrying out law enforcement activities in a diverse community.

b. Instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.

c. An examination of the patterns, practices, and protocols that cause biased law enforcement actions, and the tools to prevent such actions.

d. An examination and identification of key indices and perspectives that make up differences among residents in a local community.

e. Instruction on implicit bias and consideration of the negative impact of bias, whether intentional or implicit, on effective law enforcement, including examination of how historical perceptions of profiling have harmed community relations.

f. Instruction on the perspectives of diverse local constituency groups from experts on particular cultural and law enforcement-community relations issues in a local area.

g. A presentation of the history and the role of the civil rights movement and the impact on law enforcement.

h. Instruction on de-escalation techniques, including verbal and physical tactics to minimize the need for the use of force and nonlethal methods of applying force.

4. In developing the training guidelines, the academy shall consult with the Iowa civil rights commission, groups and individuals having an interest and expertise in the field of cultural awareness and diversity, and advocacy organizations with an interest and expertise in the field of biased law enforcement actions. The academy shall also consult with local law enforcement agencies to consider challenges and barriers to providing training under the guidelines and methods to ease the burden on such agencies.

Sec. 9. IMPLEMENTATION OF ACT. [Section 25B.2, subsection 3](#), shall not apply to this division of this Act.

DIVISION V
EFFECTIVE DATE AND APPLICABILITY

Sec. 10. EFFECTIVE UPON ENACTMENT. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2020, takes effect upon enactment.

Sec. 11. RETROACTIVE APPLICABILITY. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2020, applies retroactively to July 1, 2020.

Approved June 12, 2020